

1 Robert E. Boone III (California Bar No. 132780)
2 reboone@bclplaw.com
3 **BRYAN CAVE LEIGHTON PAISNER LLP**
4 120 Broadway, Suite 300
5 Santa Monica, CA 90401-2386
6 Telephone: (310) 576-2100
7 Facsimile: (310) 576-2200

8 Kelly W. Cunningham (California Bar No. 186229)
9 kcunningham@cislo.com
10 **CISLO AND THOMAS LLP**
11 12100 Wilshire Boulevard, Suite 1700
12 Los Angeles, CA 90025
13 Telephone: (310) 451-0647
14 Facsimile: (310) 394-4477

15 Attorneys for Defendant
16 AMP PLUS, INC. d/b/a Elco Lighting

17 **UNITED STATES DISTRICT COURT**
18 **CENTRAL DISTRICT OF CALIFORNIA**

19 DMF, Inc., a California corporation,

20 Plaintiff,

21 v.

22 AMP PLUS, INC., d/b/a ELCO
23 LIGHTING, a California corporation;
24 ELCO LIGHTING, INC., a California
corporation,

25 Defendants.

26 AMP PLUS, INC., d/b/a ELCO
27 LIGHTING, a California corporation;

28 Counterclaimant,

v.

DMF, Inc., a California corporation,
Counter-Defendant.

Case No. 2:18-cv-07090-CAS-GJS

**DECLARATION OF SAEED
“STEVE” COHEN IN SUPPORT OF
OPPOSITION TO PLAINTIFF DMF,
INC.’S MOTION FOR
PRELIMINARY INJUNCTION**

Date: January 7, 2019

Time: 10:00 a.m.

Location: Courtroom 8D,
350 West First Street, Los Angeles, CA

**REDACTED VERSION OF
DOCUMENT PROPOSED TO BE
FILED UNDER SEAL**

1 I, Saeed “Steve” Cohen, declare as follows:

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3 1. I am the President of AMP Plus, Inc. dba Elco Lighting (“Elco”). I
4 provide this declaration in support of Elco’s Opposition to Plaintiff DMF, Inc.’s
5 (“DMF”) Motion for Preliminary Injunction (“DMF’s Motion”). I have personal
6 knowledge of the matters contained herein. If called as a witness in this action, I could
7 and would testify to these matters.

8 2. Elco is a California S corporation that was formed in 1991. Ever since, I
9 have been Elco’s President. As President, I am responsible for running the company.

10 3. I hold the following degrees: a Bachelor’s Degree in Civil Engineering
11 from Tehran University in 1978; and a Master’s Degree in Engineering from Utah
12 State University in 1982. I also hold a Civil Engineering license (no. C 39672) and a
13 Structural Engineering license (no. S 3145). In addition, I have been a member of the
14 Illumination Engineering Society for 15 to 20 years.

15 4. Elco designs, manufactures and sells a wide variety of lighting products,
16 including LED and incandescent product lines for recessed, track, undercabinet,
17 outdoor and emergency lighting. Elco has been highly successful over many years and
18 enjoys a good reputation in the lighting industry as a reliable source for high quality
19 lighting products, including LED products, at reasonable prices. Elco sells to lighting
20 distributors on a wholesale basis nationwide, as well as to Canada, Mexico, South
21 America, Central America and the Caribbean. Elco also has developed a network of
22 independent sales representatives who market Elco products in these areas.

23 5. I am involved in, responsible for and knowledgeable about the design,
24 development and specifications for Elco’s various lighting products, Elco’s marketing
25 and sales of those products, and the performance of those products in the field.

26 6. I am familiar with the design and development of Elco’s ELL product
27 line of light emitting diode (“LED”) modules. These modules (the “ELL modules”)
28 include model nos. ELL0827, ELL0830, ELL0834, ELL0840, ELL1127, ELL1130,

1 ELL1135 and ELL1140, which can be used in residential and commercial
2 applications.

3 7. Elco began selling ELL modules in 2017.

4 8. Elco stopped shipping its initial design ELL modules on September 6,
5 2018.

6 9. [REDACTED]

7 [REDACTED]
8 [REDACTED]
9 [REDACTED]
10 [REDACTED]
11 [REDACTED]
12 [REDACTED]
13 [REDACTED]
14 [REDACTED]

15 10. Elco began selling the modified ELL module design on September 12,
16 2018.

17 11. Elco's ELL modules and DMF's DRD2 modules compete against a wide
18 variety of LED and incandescent lighting products offered by numerous suppliers for
19 all applications for which the ELL and DRD2 modules are designed. It is not true that
20 the DRD2 module competes only with the ELL module. A customer considering
21 either the ELL module and/or the DRD2 module typically is also considering other
22 LED and/or incandescent products that can be installed in the particular application,
23 which most often is for retrofit applications, for instance, installation into existing
24 recessed downlight lighting cans. The spectrum of competing products is wide and
25 may even include a traditional incandescent lamp downlight with a traditional standard
26 size bulb base, or a LED downlight with an adaptor for a traditional standard size bulb
27 base. Thus, a customer who decides not to use DMF's DRD2 module may choose any
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1 of a multitude of LED products besides the ELL module, or may choose an
2 incandescent product, including with a traditional standard bulb base.

3 12. Nor is it true that every customer who buys the ELL module considered
4 purchasing, let alone decided not to buy, the DRD2 module.

5 13. [REDACTED]

6 [REDACTED]
7 14. [REDACTED]

8 [REDACTED]
9 [REDACTED]
10 [REDACTED]
11 [REDACTED]
12 [REDACTED]
13 [REDACTED]
14 [REDACTED]

15 15. Elco does not really consider that the ELL modules compete with DMF's
16 DRD2 product because the DRD2 modules' pricing is significantly higher than the
17 ELL modules' pricing. Most of Elco's customers are operating within a budget, and
18 that budget places a variety of products into consideration, which usually does not
19 include DMF's DRD2 product.

20 16. Based on Elco's sales of ELL modules, it appears that most, if not all, of
21 those customers are not installing the ELL modules in junction boxes, as opposed to in
22 lighting cans, for either retrofit or new construction. Elco has not sold any junction
23 boxes in connection with its sales of any ELL modules.

24 17. Elco has not taken away customers from DMF. For instance, Walter's
25 Wholesale has been a distributor for Elco's lighting products since 1993. Parkway
26 Electrical has been an Elco customer since 1997. Value Lighting has been a customer
27 of Elco since 2005. City Lights has been a customer of Elco since 1993. Lite Line

1 Illuminations has been a customer of Elco since 1995. LBC Lighting has been a
2 customer of Elco since 1993.

3

4 I declare under penalty of perjury under the laws of the United States of
5 America and the State of California that the foregoing is true and correct.

6 Executed this 30th day of November 2018, at Vernon, California.

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8 By: _____
Saeed "Steve" Cohen

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